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THE DIRECT PRIMARY.

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THE master force which impels the direct primary movement now sweeping over the country is desire for popular control of government. Only partisans and reformers would be interested in it if it were offered simply as a means by which a public man, enjoying popular favor, could beat down his party opponents. The idea which commends the direct primary to the masses, and which rallies them to the support of its advocates, is that it is a means of giving power to the people. I purpose in this article to analyze this proposition, which presents the aspect of the case that concerns political science.

Analysis to be useful must be precise. So we must settle at the outset just what is meant by "power" and by the "people." Alexander Hamilton in "The Federalist," No. 33, defined power as "the ability or faculty of doing a thing." The "people" are primarily the collective mass of citizenship, but as a term of American politics it denotes the electorate. So when the direct primary proposition is stated in its exact significance, it means that those who will have the faculty or ability of doing the thing under the conditions in which action shall be taken will be those who will actually determine candidacy for public office. This is the reality contained in the proposal that the selection of party

candidates shall be intrusted to the mass of the party electorate. As in all other occupations or activities open to the mass of the people, there will be a differentiation of function among the units of that mass according to aptitude and opportunity. In this respect politics does not differ from art, literature, trade or commerce. They are special differentiations of function in the mass of citizenship.

All this is so elementary that it might seem that, in going into such details, one is explaining the evident and illustrating the obvious. Yet current discussion of this subject is such as to show the necessity of elementary explanation. One continually hears the declaration that the direct primary will take power from the politicians and give it to the people. This is pure nonsense. Politics has been, is and always will be carried on by politicians, just as art is carried on by artists, engineering by engineers, business by business men. All that the direct primary, or any other political reform, can do is to affect the character of the politicians by altering the conditions that govern political activity, thus determining its extent and quality. The direct primary may take advantage and opportunity from one set of politicians and confer them upon another set, but politicians there will always be so long as there is politics. The only thing that is open to control is the sort of politicians we shall have. We can never put the politicians out of business, although we can put the reformers out of business. That fact may seem ironical in view of the opprobrium now resting upon politicians and the credit enjoyed by reformers; but when political conditions are sound, reformers find their occupation gone. President Lowell of Harvard University, in his recent work on "The Government of England," remarks that "England has little that resembles either of the two correlative types of men common in American public life, the spoilsman and the reformer." If the outcry against politicians as a class were just, the reformers as a class would be more censurable, as they create the conditions that breed the spoilsmen. In general, the character of public men is determined by the conditions of their political activity. This principle was perfectly well understood by the Fathers. In the debates in the Convention of 1787, John Francis Mercer of Maryland said: "It is a great mistake to suppose that the paper we are to propose will govern the United States. It is the men

whom it will bring into the government and interest in maintaining it who are to govern them. The paper will only mark out the mode and the form. Men are the substance and must do the business." Similar expressions abound in "The Federalist," that classic treatise on political philosophy originally produced for the instruction of the people of New York, from whose principles they have deviated only to their injury. It is not the intentions with which measures are proposed, but the conditions they actually introduce, that really count in producing results. This principle was formulated by Alexander Hamilton ("The Federalist," No. 11) as a fundamental law of politics as follows: "Every institution will grow and flourish in proportion to the quantity and extent of the means concentrated towards its formation and support." This principle is known as "Hamilton's law of political development." It is universal in its application. If graft flourishes in American politics, it is due to the existence of ample provision for that institution in our political arrangements. Therefore, when any reform is proposed, we should form our judgment of its merits not by the pretences accompanying it, but by scrutiny of the conditions it will establish and by consideration of the sort of men it will tend to bring into power—that is to say, the kind of politicians it will breed.

When the direct primary is thus tested, its true character is revealed. Its pretence of giving power to the people is a mockery. The reality is that it scrambles power among faction chiefs and their hands, while the people are despoiled and oppressed. The fact that the thing is done in the name of the people, and with the pretence that it is done for the people, ought not to obscure the patent facts of the situation. It is clear that if diamonds were handed out one mile up in the air only those having airships could actually be on hand to get them. If they were handed out to first comers at a distant point in the public highway those having automobiles would practically monopolize the gift-taking. If they were regularly handed out to first comers at designated times and places in the city only those having time, means and opportunity of being first in line would actually get them, no matter how emphatically it might be announced that they should be free to all. Precisely the same holds good when offices of valuable emolument and lucrative opportunity are periodically scrambled. The hand-out may be nominally free to all, but in

practice it goes to those able to obtain positions of advantage, whether by force, fraud, cajolery or favor. The existence of such methods inevitably develops systematic and organized means of controlling the distribution and appropriating its benefits. Hence we have the boss and the machine, as regular institutions of American politics, permanent in their nature, however the personnel of their official staff may change from time to time under stress of competition. We are always pulling down bosses, because transient combinations of would-be bosses and reformers may develop strength enough to overthrow a particular boss or a particular machine. But while bosses and machines come and go, the boss and the machine are always with us. From the standpoint of the public welfare, it is the system that is important and not the individuals who act in it.

The direct primary does not remove any of the conditions that have produced the system, but it intensifies their pressure by making politics still more confused, irresponsible and costly. In its full application it is the most noxious of the reforms by which spoilsmen are generated, for it parallels the long series of regular elections with a corresponding series of elections in every regular party organization. The more elections there are, the larger becomes the class of professional politicians to be supported by the community. Hamilton's law is as constant as any law of physics, and is indeed a corollary of the axioms of physics. The evil consequences are abundantly exemplified by current political phenomena. Many are so subtle and so diffused that it is impossible to catalogue them, but some salient features of the situation may be noted, with specific instances. The following are among the effects of the direct primary:

1. *Graft*.—Nothing is more common than to hear it spoken of as an adventitious blemish upon American politics, whereas it is innate. It is an inevitable outcome of the system; and so long as the system endures, it will flourish in accordance with Hamilton's law. Take the case of the people of New York City, for instance. The law puts upon the community the task of filling the following administrative and judicial positions under the forms of popular election: *State*: Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Engineer and various judicial offices; *County*: Clerk, Sheriff,

Register, District Attorney, Surrogate, Justices; *City*: Mayor, Controller, President of the Board of Aldermen. The New York City budget for 1909 contains an item of \$1,035,130 merely for the annual expense of holding these elections, and this is but a small part of the aggregate expense. Every candidate for a nomination must spend money. Campaign work costs heavily. Then on the eve of the election comes "dough day," when the party captain in each district receives money for expenditures in getting out the vote. Altogether the expense runs into many millions of dollars every year.

Now, there is no source of wealth but the industry and resources of the community, and hence, in one way or another, the community must bear the expense of filling the offices. So when the system is such as to entail great expenditures, it falls heavily upon the community. And that is not all. In addition to supplying the funds for electioneering outlay, the community must support a vast staff of professional politicians. This is an infliction under which the people continually groan, but the matter is settled not by their likes or dislikes, but by the conditions, and the conditions are such as to afford vast employment for engineers and stokers in running political machines, the most monstrous and complicated that the world has ever seen. So long as the system is tolerated, its incidents will have to be endured.

In the popular magazines of late there has been much about the superior economy and efficiency of democratic rule in Switzerland, New Zealand and some other countries. Well, there is a reason. And the biggest reason is that their institutions are not subjected to the graft pressure to which American institutions are subject. Not one of the offices mentioned in the foregoing schedule of New York elections is filled by popular election in Canada, England, Switzerland, Australia, New Zealand or in any other country where democratic government is genuine and not counterfeit; nor, indeed, in any other civilized country in the world. Their system of responsible appointment saves the people the many millions of dollars imposed by our system of irresponsible elections, and the advantage thus obtained in the way of public economy is immense.

The direct primary necessarily intensifies graft pressure by multiplying elections. It proposes to parallel regular elections by an antecedent series of party elections to nominate candidates.

The typical effect of the system is accurately set forth in the following extract from a Texas paper, the "Krebs Banner":

"It costs a big pile of money to run for office in the new State of Oklahoma. This is to a very large extent blamed on the primary election system. The results show, it is claimed, that only wealthy men had any chance in the race for Governor or United States Senator. One candidate for Governor is reported to have spent approximately \$75,000 and another \$50,000 in the primary election campaign. Dr. — of Enid, and — — of Guthrie, men of moderate means, got out of the race because they could not keep the financial pace set by the other candidates. Two or three of the leading candidates in the Senatorial race, it is said, spent from \$30,000 to \$100,000 in the campaign for the primary nomination. When it is borne in mind that the nominees of the Democratic primaries will have to make another thorough and expensive campaign to win in the 'sure enough' election over the Republicans, it becomes evident that, if the Democrats are to win, it will be at a terrible cost to the leading officers. To win the Governorship will, it is estimated, cost the successful candidate \$75,000 more or less, to secure a job paying \$4,500 a year, hardly as much as the 'Krebs Banner' makes for its publisher, and much smaller honors. And in the case of the United States Senator, it is but little better than the Governorship, though with vastly superior opportunities for getting ahead of the game by grafting."

There are all sorts of ways "for getting ahead of the game." Public men are frequently subject to attack upon charges of this character. Even the Governor of Oklahoma, a product of the direct primary, has not been exempt. Opinions will differ, of course, as to the merits of any particular case. But it is clear that, when conditions are such that administrative positions can be obtained only by large expenditure, there will be a strong inducement to find ways and means of reimbursement and compensation. The system necessarily means graft, and in all ages graft has been associated with it.

2. *Irresponsibility.*—The whole system of filling administrative and judicial positions under the forms of popular election is a violation of the constitutional principles upon which our government was founded. The fundamental principle of constitutional government is that responsibility shall attach to every act of power. Hence the Fathers attached paramount importance to the principle of executive unity, which provides a definite location of power. The Fathers were in the habit of citing as a maxim of constitutional government that "the executive is most easily confined when it is one." In pursuance of this principle,

the Constitution of the United States provides that "the executive power shall be vested in a President of the United States of America." The power which any Federal attorney, marshal, commissioner, collector, postmaster or other Federal agent exercises is delegated by the President, and may be revoked by the President in his discretion, so that when public opinion acts upon the Presidential office it acts upon the whole administration. Political force flows full and strong in one effective channel. Under the system existing in our States, this force is dissipated among many channels, producing the morass in which we continually flounder in our State politics. Responsibility is too vague, diffused and uncertain to be effectual. Power is not definitely located anywhere. Just such consequences of the violation of the principle of executive unity were predicted by the Fathers. In "The Federalist," No. 63, written either by Hamilton or Madison, it is pointed out that, paradoxical as it may seem, there may be a want of "due responsibility in the government to the people arising from that frequency of elections which in other cases produces this responsibility."

If we turn to private business for an illustration this paradox will become easily intelligible. Suppose the shareholders of a bank should themselves elect its president, its cashier, its secretary, its auditor, its head bookkeeper, its janitor, and in addition a board of directors to pass its by-laws. Suppose that then, in addition, the shareholders in each district of its business field should elect its principal agents likewise as independent authorities. Would any responsibility for business results be left anywhere by this multiplicity of elections? Well, that is the kind of situation which is produced in the public business by the electoral arrangements peculiar to the American State. Responsible government is destroyed.

In this situation, by a prodigy of political talent, a system of party responsibility has been evolved. It is a poor substitute for representative government, for it is unconstitutional in its structure and oligarchic in its authority. It secures its revenues by processes of extortion, justified by custom in consideration of its necessities. Corporations serve as its toll-takers, turning over to it large sums and receiving legislative favor and official protection in return. They act in this capacity willy-nilly, for the conditions are such that they must feed the brute or his teeth

and claws will be on them. Notice what a ferocious onslaught was made on the railroad corporations all over the country when they cut off the supply of free passes to the politicians under the compulsion of the Federal law! So those charged with large trusteeship, having interests closely intermingled with public interests, find it necessary to spend money for political power and influence. A president of the American Sugar Refining Company, in testifying before a Committee of the United States Senate, blurted out the naked truth about the system. He said: "It is my impression that wherever there is a dominant party, wherever the majority is large, that is the party that gets the contribution, because that is the party which controls the local matters." He explained that such contribution was made because the company had large interests to protect, and he added: "Every individual and corporation and firm, trust, or whatever you call it, does these things and we do them" (Senate Report, No. 606, Fifty-third Congress, second session, pp. 351, 352).

This virtual taxing power, conceded by custom to party organization, rests upon an unconstitutional control which is a product of conditions imposed upon the community by reformers. Those conditions have determined the characteristics and shaped the activities of the politicians. The class interests of the politicians are ordered and graduated in a way that suggests the feudal system and, indeed, is its homologue both in its origin and in its nature. It is a system of personal connection founded on reciprocal duty and service, with its own peculiar code of ethics, stringently enforced. It introduces a principle of responsibility that is gross and imperfect, but is nevertheless genuine. Party organization has a corporate interest that may be reached and acted upon by public opinion, and be held to some responsibility for results. Party government in America is, in fact, a broad-bottomed oligarchy whose administration is costly, negligent and incapable, but which at least sets up barriers against the anarchy and terrorism that always in the past have been the outcome of ochlocratic methods. In Greece, Rome and mediæval Italy the distribution of authority among independent authorities, by means of popular elections, made the state the scene of frequent civil wars. Apart from the United States, the only modern country which tried that system was revolutionary France. The scheme of local government devised by the Constituent Assembly

and promulgated by the decree of December 14th, 1789, was based upon the principles of the direct primary and the recall asserted with logical completeness. All administrative officials were chosen by the citizens meeting in primary assemblies, and these might reassemble to recall and replace obnoxious officials. Special precautions were taken, so far as statute law can go, to make these provisions practically effective. The faction fighting that ensued soon brought about the state of things known in history as The Terror. In the present French Republic, elections are absolutely confined to the choice of representatives. America is the only country that has even been able to maintain tolerable conditions of public order when authority is split up and scattered among factions. This unique achievement stands to the credit of American politicians, and the fact is recognized by philosophical observers. Bagehot in his classic treatise on the English Constitution says that, if Americans "had not a genius for politics, if they had not a moderation in action singularly curious where a superficial speech is so violent, if they had not a regard for laws such as no great people have yet evinced and infinitely surpassing ours—the multiplicity of authorities in the American constitution would long ago have brought it to a bad end."

Our political class is inordinately numerous and inordinately expensive; but the only effectual way of curtailing their number and diminishing the burden of their support is to have less for them to do. Elections should be reduced in number. The direct primary proposes to give the politicians more to do. It provides for a series of elections in advance of the present series. And, at the same time, it strikes down party responsibility by providing that party agents shall no longer hold their posts by efficiency, as now, but by faction favor. The practical effect will be to substitute for existing boss rule a far more corrupt, degraded and impervious sort of boss rule. The change will be analogous to that which took place in the mediæval Italian republics, when local oligarchies were succeeded by professional *condottieri*, heedless of aught save their own gains.

A transformation of this order through the direct primary is noted by the Commission that recently reported a new charter for Boston. The Commission in its report on existing conditions says:

"The direct primary system was no doubt intended to abolish partisanship in municipal government, but in its practical working there is no longer the partisanship of a great organization bound theoretically by party principles and having some regard for its political responsibility in the State at large. It is a partisanship of ward organizations, calling themselves Republican or Democratic, as the case may be, but representing no municipal policies capable of formulation. . . . It has made it artificially difficult to secure good nominations; it has debarred the best and most representative citizens from participation in the government; it has increased the power of money in elections; it has practically handed the city over to the ward politicians. It tends to create bad government, no matter how strongly the people may desire good government, and to discredit the capacity of the people when congregated together in great cities to administer their municipal affairs."

That is the characteristic tendency of the direct primary everywhere. If the people do everything themselves, then they have only themselves to blame when things go wrong. In practice, government constituted on such principles means the irresponsible rule of faction. Outrages may be perpetrated for which no party organization would dare to assume responsibility. The case is illustrated by certain facts given by Judge Ben B. Lindsay, of Denver, in a pamphlet entitled "*The Rule of Plutocracy in Colorado.*" On the principle that the people should do everything themselves, the grant of a franchise to a street railway company was submitted to the direct vote of the people. Judge Lindsay charges that the proposition as submitted was shaped in the interest of the railway company, and he says that "no more arrogant and outrageous lawlessness in stealing the property of others was ever enacted." Influential politicians of all parties and public officials were employed by the corporation to carry the proposition at the polls. Judge Lindsay says that the market value of the company's securities was increased \$5,000,000 as the result of the election, so that as a business proposition the company stood to win largely even if it took millions to carry the election. Indeed, he estimates that the perpetual franchise the company aimed to secure "would be cheap at \$500,000,000." He denounces the behavior of the politicians and public officials who took fees from the company to work in its interest as treachery to the people. But what legal offence did they commit, so long as they did not practise bribery? The responsibility did not rest with them, but with the people. They were employed as advocates—an entirely legitimate occupation. That the trans-

action was one of public debauchery, as he claims, may be admitted, but the debauchery inheres in the system. The hired advocates did what, on the principle of the direct primary, they had a perfect right to do. Judge Lindsay makes a detailed contrast between the terms obtained under this system and the terms obtained by Toronto in providing street railway service. There the public treasury receives a percentage of the gross income of the railway company, on a rising scale from eight per cent. up to twenty per cent. when the income reaches three million dollars. In addition, the stipulations of the contract require the company to sell tickets at the rate of eight tickets for twenty-five cents during morning and evening hours and twelve for twenty-five cents for school children. Judge Lindsay points to this as an example of what might and should be done, but he fails to draw the moral that to get Toronto results American cities should resort to Toronto means. Well, in Toronto there is no direct primary, no initiative and referendum, and no elections to fill administrative or judicial posts; but there is responsible government. Nothing is further from the truth than to describe the direct primary as a democratic institution. It is the negation of democratic rule, and nothing of the sort is found where democratic government really exists.

Plutocracy.—The rule of bosses and party machines, while a poor substitute for democratic government, is better than any other substitute available in the conditions to which American politics has been subjected. It is at least an integrating force and makes towards responsible government. The bosses correspond to "the undertakers," who are described by Lecky in his "History of England in the Eighteenth Century" as an oligarchy founded upon personal connection and "dexterity in party management." He observes that "this oligarchical connection was unpopular with the people on account of its narrowness and corruption," but he remarks that its overthrow resulted in more corruption than its ascendancy, and he holds that its influence in "binding many isolated and individual interests into a coherent and powerful organization was a real step towards parliamentary government." Since boss rule represents power founded on organized personal connection, it may admit poor men to its sphere and may select poor men for its candidates. Thus it has frequently occurred that poor men of ability have been raised to

high office by dint of personal ability, and party interest is thus made subservient to public interests. The case of Abraham Lincoln is typical. But when power is conditioned upon ability to finance costly electioneering campaigns, plutocratic rule is established. One of the maxims of the Fathers was that power must exist and be trusted somewhere. Responsible government exactly defines the somewhere, but that crown of representative institutions has yet to be attained in the United States. As the late Speaker Reed frankly declared: "We have at present irresponsible government, so divided that nobody can tell who is to blame." In this situation party organization performs a great service, because it roughly locates power somewhere, thus assuming a vague but real responsibility for the behavior of government. The direct primary impairs this responsibility by making power the football of faction. Power will rest somewhere just the same, but few will know where, so that it will be released from any responsibility for results. The behavior of legislative bodies will be peculiarly exposed to irresponsible influence. It is already plain that the direct primary affords means of setting up secret control. The investigation of the last Senatorial election in Wisconsin showed that various members of the Legislature were employed as electioneering agents. A wealthy candidate, as an incident of his canvass, could get a Legislature deeply under his influence by pecuniary favors. This would be a development quite in accord with historical precedent. The magnate and his clients were a familiar political factor in the government of the Roman commonwealth when it was conducted on the lines that are now imitated in the American state.

Ochlocracy. — Historically, plutocracy and ochlocracy — the money power and the government of the mob — always appear together. It is a favorite theory of reformers that, if there were no organized control, the people would select their wisest and best for public office. This is mere sentimental cant. Favor decides choice when selection is not accompanied by direct and immediate risk of consequences. On May 7th, 1903, Governor Pennypacker vetoed a bill for popular election of mine inspectors. He said:

"Their selection is to be made by the people at an election. The majority of the people, however, have no technical knowledge of mines and

are engaged in other pursuits. The selection would be likely to be made upon other considerations than those of the technical capacity of the miners. They would in all probability be determined by association, by political relations and by all those influences which affect the ordinary voter. To state the proposition is enough in itself to show that this would not be likely to result in securing competent mine inspectors. No one would think of determining the selection of a physician or an engineer to run a railroad train, or the occupant of any other station requiring technical information by a popular vote at an election. In fact the selection of mine inspectors would seem properly to belong to the Executive Department of the government."

In the last New York State campaign, Governor Hughes, on similar grounds, opposed the appointment of members of the Public Service Commission by popular election. He said: "In theory commissioners might be elected, but in practice they would really be appointed by irresponsible men." These sensible comments are just as applicable to any other administrative function.

At the direct primary in Atlanta, Georgia, in June, 1908, the contest for the nomination to the office of coroner was between a blind musician and a one-armed Confederate veteran. The issue seemed to be whether blindness or lameness established the stronger claim to popular favor. The blind man won. In an interview published in the "Atlanta Journal," he explained that he sought the office because he needed the money. "It has always been my ambition," he said, "to go to Munich and complete my studies in music. That, of course, takes money, and the surest and fastest way of making the necessary money, as I see it, is through the coroner's job."

The system, of course, means that if the public business is attended to the people have to support one class of officials to do the work and still another class to attend to the electioneering. Some queer mix-ups occur in the differentiation of these functions. The "Memphis Commercial Appeal," on November 18th, 1908, reports an instructive development. A Grand Jury of Shelby County, Tennessee, complained to the court that no indictments were forthcoming on presentments made. The following facts were disclosed: It had been the practice for a deputy sheriff to frame the indictments. During the campaign the candidate for sheriff was so aggrieved by remarks made by the successful candidate for attorney-general that he would not allow the deputy sheriff to prepare indictments until an acceptable

apology was made. The "Commercial Appeal's" account of the affair concludes as follows:

"Sheriff — said that he was perfectly willing for Mr. — to write indictments, and that at any time the demand he had made was complied with by Gen. —, the grand jury work would be restored to its former status.

"Gen. — says that he and his assistants will write the indictments, and that arrangements will soon be made by which the grand jurors will have all the work they can attend to on each meeting-day. The work is yet new to the attorney-general and both assistants, but they declare that they will master it in a short while."

The sort of influence which the direct primary exerts on the administration of justice is illustrated by this extract from the "Kansas City Times" of August 5th, 1908:

"CARTHAGE, *Missouri, August 4.*—Carthage is at a standstill in the — murder mystery. Although at least two plausible theories of the affair have been entertained by the authorities, there has not been an arrest yet. The primary elections have diverted the attention of the officers from murder to politics. While the murderer of Dr. — goes unapprehended, Carthage plays politics. Sheriff — — and — —, the constable, who have been working on the case, have suspended operations until after the primaries."

Space will not admit of further details, of which I have a copious supply drawn from actual experience. Mention, however, should not be omitted of one feature of the system, and that is the way in which it oppresses the poor. The recent investigation of social conditions known as "The Pittsburg Survey" directs attention to the large sums obtained by elective justices and constables by petty prosecution. The men who secure these offices are usually chiefs of local political gangs, whose influence is aggrandized by the direct-primary system. Candidates for high office solicit their support and pool interests with them. The poor are helpless against such combinations, and their only chance of tolerable security is to commend themselves to boss protection by political service as in the feudal period. In the sequence of cause and effect there may be at one end the well-meaning reformer and at the other end the poor ground down by a system they can neither comprehend nor withstand. I have yet to find an instance in which the direct primary has actually tended to promote good government, and it is only by some dire confusion of thought that good men can advocate such a pernicious nostrum.

HENRY JONES FORD.